

# WASHINGTON STATE GAMBLING COMMISSION

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## MINUTES COMMISSION MEETING THURSDAY, JANUARY 12, 1995

**MEMBERS PRESENT:** ROBERT M. TULL, Chairman; PATRICK GRAHAM, ARDITH DIVINE, and EDWARD HEAVEY.

**OTHERS PRESENT:** FRANK L. MILLER, Director; BEN BISHOP, Deputy Director; CARRIE TELLEFSON SUTHERLAND, Special Assistant, Public Affairs; SHERRI WINSLOW, Assistant Director, Field Operations; JONATHAN Mccoy, Assistant Attorney General; BECKY SPANGELO and JACKI FISCHER, Financial

**Investigations;** and SUSAN GREEN, Executive Assistant.

**Commissioner Graham** called the meeting to order at 1:30 p.m. at the Wyndham Garden Hotel, SeaTac, Washington. Chairman Tull had notified the members that he would be arriving shortly after the meeting was to begin. He said that Commissioner Mosbarger is in the hospital and had to have a pace maker inserted this week and is not expected to be released until later in the week.

**Director Miller** said staff reports will be held until tomorrow.

### LICENSE APPROVALS NEW LICENSES, CHANGES, WITHDRAWALS, and TRIBAL CERTIFICATIONS

**Commissioner Heavey** moved for approval of the list as printed; **Commissioner Divine** seconded the motion; motion carried with three aye votes.

### REVIEW OF FRIDAY'S AGENDA

**Ms. Sutherland** said there are two items up for final action tomorrow; the petition that includes three rule changes and also is the tribal-state compacts. There will be 2 compacts and 7 amendments. There are 22 rules up for discussion and possible filing; 6 of them are related to the licensing of gambling managers, 9 have to do with commercial stimulant rules that are the result of a legislative change last year, and 6 are a raffle package. There is also one housekeeping change. Item five under qualification reviews had a change in that Big Brothers/Big Sisters of Tacoma has postponed its formal review until the March meeting. **Commissioner Graham** stated that on Friday's agenda, most likely item 3B (tribal-state compacts and compact amendments) will be moved to the end of the agenda because Senator Margarita Prentice would like to be here and can't be here at 10:00 a.m.

### DEFAULT HEARING

**Barry D. Laverdure, CR 94-1015**

**Ms. Sutherland** said Mr. Laverdure is a Card Room employee. The Director summarily suspended this card room employee's license for failing to disclose a past felony conviction and for a number of other things. He was served the order of summary suspension and failed to respond. Both the Compliance and Hearing

section and our agents attempted to locate him to ensure that he did not plan to request a hearing. We were unable to locate him. Staff recommends a two-year revocation of the license to operate as a card room employee. He was convicted of a felony, he failed to report this to the Commission and pursuant to the Administrative Procedures Act, an Order of Default may be entered. **Commissioner Graham** asked where Mr. Laverdure was located? **Ms. Sutherland** said we are unsure of where he is located now and staff attempted to find Mr. Laverdure and notify him of this action; he was not found. He was served personally west of the mountains but has not been located since. **Commissioner Heavey** moved for a 2 year revocation. **Commissioner Divine** seconded the motion; motion carried.

## QUALIFICATION REVIEWS

### FORMAL REVIEW:

#### LAKE WASHINGTON YOUTH SOCCER, Bothel

**Ms. Spangelo** said this is an athletic organization with a Class "M" bingo license, and a Class "O" punchboard/pull tab license. They have 55 voting members. They hold 11 board meetings per year. During the last fiscal year they served 5,800 youth and had contributions totaling \$11,785. Net gambling revenues totaled \$691,362, which is 86.7% of total revenues for the year. Bingo net income totaled \$505,752 which is 63.4% of total revenues. They spent \$624,058 in support of their stated purposes. Staff recommends qualification as an athletic organization.

**Steve Bean**, President of Lake Washington Youth Soccer, said the organization has afforded many opportunities to youth ages 6 to 19. Soccer games and related activities, purchase of property and charitable contributions are the 3 significant areas. There were approximately 3,500 games played by the youths. Two teams were state champions in their respective categories, and the club was able to finance the teams' trips to regional tournaments out of state. The demand on sports fields and facilities makes it difficult to use what they need. They have purchased 110 acres in the Sammamish Valley. They are continuing to work with the counties to have the property zoned properly so they can use the land to meet their needs.

((Chairman Tull arrived at this time))

They donated \$26,803 to the Bellevue and Kirkland DARE program, the Kirkland food bank, the Kirkland Special Olympics, Rotary and through various college scholarships. **Commission Graham** asked that everyone be introduced that is associated with the organization. **Mr. Bean** stated that those present are: David Hulls, Association Vice President; Mike Miles, Executive Director; Wayne Crum, bingo operator; Doug Davis, coach, parent and volunteer; and Robert Young, charitable committee chair.

**Commissioner Graham** asked about the former executive director, Donald Baker, and said he noted that he resigned but is a consultant. He asked whether Mr. Baker still on the payroll **Mr. Bean** said yes, he is on the payroll through March 31, 1995, as a consultant. **Mr. Bean** said the association was organized in 1973, and shortly after that, Don Baker became involved in the organization and brought the bingo program to life. He arrived at the age and level of interest in his life when he thought he may like to do something else, and he had developed an interest in the property aspect of the organization and he has been very involved in helping the organization through the maze of regulation and activity. He said the organization does not plan to renew his contract in its existing form.

**Chairman Tull** asked whether there are any other questions **Mr. Bishop** asked about the length of the bingo sessions. **Wayne Crum** said that 11 a.m. to 2 a.m. is the bingo operation hours. He stated that they have 28

employees of which 15 or 16 are full time; 30+ hours.

**Chairman Tull** said staff has recommended that this group be qualified to hold a license; **Commissioner Heavey** moved to accept staff's recommendation; **Commissioner Graham** seconded the motion. **Chairman Tull** thanked the board members who came to this meeting; motion carried with four aye votes.

### **GROUP III's**

#### **BIG BROTHERS OF KING COUNTY, Seattle**

**Ms. Spangelo** said this is a charitable organization with a Class "L" bingo license, and a Class "K" punchboard/pull tab license. They have 37 voting members and 12 board meetings per year. The organization maintains a full time administrative office in Seattle and operates 4 other offices in Burien, Kent, Kirkland and central Seattle. Volunteer big brothers meet with their little brothers once a week and little brothers can participate in the program until they are 18 years old. During the last fiscal year, 560 matches were served. Contributions totaled \$10,000, which was to the Thurston County Big Brothers and Sisters. Net gambling revenues totaled \$759,184, which is 57.8% of the total revenues for the year. They spent \$1,258,906 in support of their stated purposes. Staff recommends qualification as a charitable organization.

**Commissioner Graham** asked why the executive director is paid less than the bingo manager. **Mr. Bishop** said it's probably harder to find a well qualified bingo manager than executive director. **Mr. Wozniak**, athletic director, said the executive director only worked a partial year during the reporting period.

#### **CENTRAL AREA YOUTH ASSOCIATION, Seattle**

**Ms. Spangelo** said this is a charitable organization with a Class "M" bingo license, a Class "N" punchboard/pull tab license, and also has licenses for amusement games and raffles. There are 15 voting members and this organization holds 10 board meetings per year. The organization's greatest accomplishment during the reporting period was that every team participating in this program made it to the championship in the last fiscal year. During the year, \$3,915 in scholarships were awarded. Contribution total \$440. Net gambling revenues totaled \$593,946 or 33.9% of total revenues for the year. Staff recommends qualification as a charitable organization.

**Chairman Tull** said he's inclined to look beyond the sparse commentary of the "asterisk" on attachment B, which says that three of the previously most highly paid employees departed under a variety of circumstances during 1994. The Board at that time was fully cooperative with the Gambling Commission staff. He asked if staff is as satisfied as the recommendation suggests. **Mr. Bishop** said staff is satisfied with the organization's progress and they have a better working relationship with the Commission staff than ever before. He said the three departing people were issued administrative charges. **Mr. Bishop** said that was his understanding that several board members had changed and the organization had a completely different attitude. They have cooperative completely with our staff.

**Commissioner Graham** asked if the Board now has taken more responsibility now; **Ms. Fischer** said yes, **Chairman Tull** suggested that the Commission grant only temporary certification and asked that the staff to give more of an explanation as to what went wrong and ensure that they have made the proper changes so the same mistakes do not happen again. **Commissioner Graham** seconded the motion. **Chairman Tull** said staff should contact the organization and determine which meeting they could attend, February in Olympia, or March in Tacoma. The top people should attend and answer questions from the Commission. Take into

account this review when that particular agenda comes around.

Vote taken on all Group IIIs, motion carried with four aye votes.

## **GROUP II**

### **BOYS AND GIRLS CLUBS OF TACOMA/PIERCE COUNTY, Tacoma**

**Ms. Spangelo** said this is a charitable organization with a Class "I" bingo license and a Class "J" license for punchboards/pull tabs. They have 67 voting members and hold 12 board meetings a year. The organization consists of 4 branches located throughout Pierce County. Each branch is governed by its own board of directors. During the last fiscal year 3,634 boys and girls were served. Net gambling revenues totaled \$225,377 - 20% of total revenues for the year. Staff recommends qualification as a charitable organization.

**Chairman Tull** asked about the footnote #3 which talks about receiving an exemption. He asked whether the exemption was ours or the IRS's. **Ms. Spangelo** stated that as of December, 1994, they have received approval from the Director to have their endowment funds and their trust funds exempted from the excessive reserves calculations. **Commissioner Heavey** asked who is controlling the gambling activities. **Ms. Spangelo** said the list shows only those who make \$30,000 or more, and the bingo manager is not listed but she will find out. **Chairman Tull** asked that Commissioner Heavey be provided with the correct documentation to answer his question. **Chairman Tull** said this group may have a super-board (114 board members) and he said he'd like to defer this group over until tomorrow, after some of these questions have been answered. **Commissioner Heavey** noted that there are 67 voting members and 110 board members. **Mr. Bishop** said that with regard to who's running the gambling activities, staff will provide the Commission with answers.

**Commissioner Heavey** moved for qualification of King County Big Brothers; **Commissioner Graham** seconded the motion, motion carried with three aye votes.

**Chairman Tull** called for an executive session and adjourned the public meeting.

## WASHINGTON STATE GAMBLING COMMISSION

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### MINUTES COMMISSION MEETING FRIDAY, JANUARY 13, 1995

**Chairman Tull** called the meeting to order at 10:00 a.m. at the Wyndham Garden Hotel, SeaTac, Washington.

**MEMBERS PRESENT:**                      **ROBERT M. TULL, Chairman; PATRICK GRAHAM; ARDITH DIVINE, and EDWARD HEAVEY\*; and Ex Officio Member SENATOR MARGARITA PRENTICE\*; and REPRESENTATIVE KAREN SCHMIDT, via speaker telephone.**

**OTHERS PRESENT:**                      **FRANK L. MILLER, Director; BEN BISHOP, Deputy Director; CARRIE TELLEFSON SUTHERLAND, Special Assistant, Public Affairs; and SHERRI WINSLOW, Assistant Director, Field Operations; SHARON TOLTON, Assistant Director, Special Operations; JONATHAN McCOY, Assistant Attorney General; and SUSAN GREEN, Executive Assistant.**

**\*present only for the tribal compact vote**

**Chairman Tull** said there are some logistical situations involving members of the Commission, in that Commissioner Heavey and Senator Prentice will be arriving later on for a portion of the agenda; Rep. Schmidt will be present via speaker telephone during that same portion, which is for tribal-state compacts and compact amendments vote. There was a public hearing held on December 16, 1994, in Poulsbo, at which a vote was taken. That vote has been questioned as to not having enough members present to constitute a quorum. The issue will be heard again today and another vote taken as the final vote.

### **APPROVAL OF THE MINUTES FROM THE NOVEMBER 17-18, 1994, MEETING**

**Commissioner Divine** moved for acceptance of the minutes from the November 17-18, 1994, Commission meeting in Spokane, Washington, as set forth and printed in the agenda packet; **Chairman Tull** seconded the motion; motion carried.

### **STAFF REPORTS**

### **PRESENTATION**

**Director Miller** said he would be giving a brief version of the presentation he made before the Senate Labor, Commerce and Trade Committee at a hearing last week. He presented overhead transparencies.

**Director Miller** said Washington State has the largest volume market in the country of pull tab sales. More than \$1.5 million in punchboard/pull tabs games are sold in the state of Washington. There is a slow-down in punchboards and pull tab sales. It was a good year in the bingo arena. Card rooms had the highest year

ever. The \$17 million figure does not take into account the legislative increase last year from \$4 to \$6 per hour in rental space. Fund raising events continue to decrease substantially. The combined gross receipts for all the activity was \$748 million. Distribution of gambling receipts; commercial stimulant was 55 percent for \$415 million. The nonprofits were 43 percent; amusement games were 2 percent.

**Director Miller** said that three weeks ago, the National Indian Gaming Commission (NIGC) gave the Gambling Commission a chance to respond to the Puyallup Tribe's request to the NIGC to grant grandfather status to a blackjack card game operation. The only grandfather operation recognized in the state of Washington is the Lummi Tribe's grandfather operation. He said the Gambling Commission is unaware of any Puyallup Tribe operation that was up and running before May 1, 1988. Granting grandfather status would cause an undermining of the IGRA, damage the strong regulatory environment already achieved, and it undermines those tribes that are working with the Commission.

**Chairman Tull** asked if the time frame was known as to when an answer would be given to the Tribe's request for grandfather status; **Director Miller** said initially when the opportunity came in for comment he was advised they would hopefully make a decision by mid-January. He said staff has notified all of Washington State's congressional delegation involved.

## **ADOPT OR AMEND RULES**

### **PETITION:**

**Chairman Tull** said there will be an opportunity for public comment on this issue, and it is up for final action today. **Ms. Sutherland** said following the summation of the rules she will go through an impact statement or analysis of these rules on our agency.

### **Amendatory Section WAC 230-04-280 -- Licensees must notify law enforcement and local taxing authorities**

**Ms. Sutherland** said this portion of the petition sets out the guidelines for notification of licensure to local law enforcement and taxing authorities. Staff recommends final adoption of these rule changes, along with the potential for the Gambling Commission to recoup its costs from the taxing authorities.

### **Amendatory Section WAC 230-04-400 -- Denial, Suspension or Revocation of Licenses**

**Ms. Sutherland** said this is also submitted by Treasurer's Association which will include failure to make payments to local taxing authorities a reason for denial or revocation of a gambling license. Staff recommends final adoption.

### **Amendatory Section WAC 230-50-010 -- Adjudicated proceedings -- Hearings**

**Ms. Sutherland** said this amendment will include subsection 6(c). Staff has also added to this rule under subsection 6(d) to include hearings pursuant 230-04-190 under the failure to make payments, two-part payment plan. Staff recommends final adoption.

**Chairman Tull** asked what the concept is for method of reimbursement; **Ms. Sutherland** referred to the handout regarding the impact on the agency from these rule changes and said staff sent out a number of surveys to local taxing agencies; 101 responses were received and it is estimated that there are 69 potential case referrals for tax delinquency. There are a number of ways to gain reimbursement for the agency's cost;

one is to obtain reimbursement from the taxing authority for the cost incurred and may require a WAC rule which would allow us to do this on an hour for hour basis. A second method of obtaining reimbursement would be obtaining reimbursement directly from the licensee out of settlement of the case and then a third method would be to propose an increase in license fees. **Director Miller** noted the third option is not one that we support. **Chairman Tull** said the option of a specific rule arranging reimbursement in this particular type of action would be preferable. **Director Miller** commented that the recommendation of staff is based on the hope that this may send a strong message. There could be a dramatic decrease in the number of cases.

((Senator Prentice arrived at this time))

**Linda Crane Nelson**, of the King County Department of Revenue, said she thinks that once the licensees understand they are going to be charged for this type of regulatory scrutiny, they will be unwilling to pay that fine. She said she continues to support the adoption of this petition as amended. **Director Miller** said the costs to the Commission would be reimbursed out of any settlement received from a case. **Ms. Crane Nelson** said she thought the additional monies would be above and beyond the taxes owed. **Chairman Tull** noted that letters regarding this issue were received by the Commission, including a proposal by Darrell Lee. **Director Miller** said he is uncomfortable with Darrell Lee's suggestion and he does not support this particular language. **Mr. McCoy** said the rule as written gives a basis for initiation of an action; it does not go to the merits of the proposal that is included in the packet; it creates substantive issues that could be raised during the adjudicative proceeding. **Director Miller** said this proposal would then undermine the ability of the Commission to go forward with that procedure.

**Chairman Tull** said this raises an issue of concern as to how the Commission can make sure that it doesn't unintentionally upset a legitimate dispute between a taxpayer and local government. **Director Miller** said they are not precluded from bringing their defense. **Chairman Tull** said that if staff thought they had a legitimate issue, they would not proceed. **Director Miller** said there is flexibility here and he thinks they have the right to pursue a different remedy if it's ruled against them on any administrative action that is taken. **Chairman Tull** said there are a lot of different taxes collected and lots of variations of systems that give taxpayers some flexibility. **Director Miller** stated the vast majority of cases over the years have been simply failure to pay. He said he cannot support the language provided by Darrell Lee, but does think there is enough protection for the licensees here as written. **Chairman Tull** said the Commission doesn't often specifically refer to written testimony. He said he thinks the Commission ought to make sure that it is at least acknowledged as being received.

**Chairman Tull** called for testimony from the audience; no one came forward. **Commissioner Graham** said he has a problem with the first rule, which states that new licensee will receive a letter from the Gambling Commission notifying them of their obligation to notify the local taxing authority. But if the licensee lives in an area that is not taxed for gambling, then they may waste time searching for whom to notify. Also, he doesn't like the idea that the Commission may have to increase staff just for this.

**Commissioner Graham** moved for continuing this issue until further research can be done. **Commissioner Divine** seconded the motion. **Mr. McCoy** reminded the Commissioners that they have 120 days to consider rule changes. **Commissioner Graham** said a simpler solution would be to mail out the list of new licensees to local taxing authorities each month like the list that already goes to the local law enforcement. **Ms. Sutherland** said that by policy the Commission has already agreed to send that list out to the local taxing authorities. **Director Miller** said the Commission presently notifies local law enforcement agencies of new licensees. He said the Commission has tried to work out notifying everyone and more importantly those people who have not paid yet before they could commence business. He asked if his concern is about dual notification; **Commissioner Graham** said he did not know the Commission was already planning to notify the taxing authorities.

**Chairman Tull** said based on the motion and second, the issue is continued to the February meeting. Vote taken, motion carried with three aye votes. **Commissioner Graham** said the second issue he is concerned with is whether or not the Commission will really need an extra FTE to support the changes caused by the petition. **Chairman Tull** stated the Commission would wait until next month for any further discussion on this issue.

**Chairman Tull** asked that the Commission bring up items 4, 5, 6, and 7 on the published agenda taking just a moment or two for each section and said they will probably be accepted for filing and then they will go on to the agenda for several subsequent months.

**Ms. Sutherland** stated that items 4 through 7 are all up for discussion and possible filing. Item 4 is an amendment. WAC 230-02-240 - Gambling manager defined. The staff proposes that charitable or nonprofit managers be licensed. This particular amendment provides for a separate definition of a commercial gambling manager as distinguished from a charitable or nonprofit gambling manager. Staff recommends filing for further discussion. Item 4B is an amendment to WAC 230-02-418 - Charitable or nonprofit gambling manager defined. This amendment changes the reference from bingo manager to charitable or nonprofit gambling manager and broadens the definition of a charitable or nonprofit gambling manager. The staff recommends filing. Item 4C is an amendment to WAC 230-04-145 Licensing of charitable or nonprofit gambling managers-- Application procedures. This rule adds a requirement for selective management personnel to be licensed and sets forth the application requirements for charitable or nonprofit gambling managers. Staff also recommends filing. Item 4D is an amendment to WAC 230-04-147 - Notification to the Commission upon beginning, terminating, or changing responsibilities of charitable or nonprofit gambling managers. This amendment clarifies the guidelines for notification to the Commission upon beginning, terminating or changing responsibilities of these types of gambling managers. Staff recommends filing for further discussion. Item 4E is a new section, WAC 230-12-079 -- Duties and responsibilities of a charitable or nonprofit gambling manager. This new section sets forth the guidelines for the duties and responsibilities for these types of gambling managers. Staff recommends filing for further discussion. Item 4F is an amendment to WAC 230-20-070 - Regulation of managers, operators, and other employees -- Charitable or nonprofit organizations. This amendment clarifies the restrictions applicable to managers, operators and other employees of charitable or nonprofit organizations. Staff recommends filing for further discussion. That concludes Section 4.

**Chairman Tull** asked for the overall purpose of the proposal; **Ms Sutherland** said this proposal will essentially license executive directors or those who have the highest level of responsibility for the gambling activities and the funds that are generated from gambling activities. **Commissioner Divine** ask what the license fee is going to be. **Ben Bishop** answered \$150. **Director Miller** explained the fee is for background investigations and to process that application. He said staff has been working with the charitable or nonprofit organizations for about six months on this proposal, and has determined that ultimately, the highest ranking person who has the final say over how funds are distributed is not presently necessarily licensed by the Commission.

**Ms. Sutherland** stated that item 5A is an amendment to WAC 230-02-350 - Commercial stimulant defined. This amendment clarifies the definition of "commercial stimulant" in accordance with the recent amendment to RCW 9.46.0217. The amendment no longer requires net gambling receipts to be less than gross food and drink sales. Staff recommends filing for further discussion. Item 5B is an amendment to WAC 230-02-360 Licensed premises defined. This amendment clarifies the definition of licensed premises. Staff recommends filing for further discussion. **Chairman Tull** asked that Ms. Sutherland give the purpose and thrust of each section and not read each one individually. **Ms. Sutherland** stated Item 5 essentially is a result of legislation last year that took out the requirement to measure commercial stimulant purposes to determine whether a business' gross sales of food and drink exceed their gambling activities. The whole packet has to do with interpreting that legislation. **Chairman Tull** asked if these rules have been discussed informally with licensee constituents. **Director Miller** said there have been some informal discussions and there have been some



favorable responses. No objections have been raised.

**Ms. Sutherland** said item six is raffle rules. This rules package was a result of a number of meetings between staff and organizations that hold raffle licenses. Mr. Bishop was involved in those meetings. It basically enables organizations who conduct raffles to have abbreviated record keeping requirements and to allow certain kinds of raffles for members only. The rules also make exceptions for certain of the rules that have to do with minors selling raffle tickets when an organization is engaged in activities that benefit minors primarily.

**Ms. Sutherland** said item 7 is just a housekeeping change. It reflects the current number of assistant directors that are currently on staff, which is three.

**Chairman Tull** said if there is anyone who wants to urge the Commission to not even consider these rules, this is the appropriate opportunity to do so.

**Rance Block**, field director for the Rocky Mountain Elks, said his organization runs raffles. He appreciates the cooperation from the Gambling Commission. He said he has a letter on record with the Commission opposing one part of the changes. **Chairman Tull** encouraged Mr. Block to attend the February or March Commission meeting to make comments on these rule changes. He said the only action to be taken today is the filing for discussion, which only begins the process. The next two meetings will be the consideration part of the process, in which appropriate changes may be made.

**Frank Locker, Duck's Unlimited**, said he also had comments and wants to be sure his group will be involved in the process and speak out for the six organizations he represents. **Chairman Tull** assured him there would be two hearing opportunities and the study group meetings as well. **Mr. Locker** represents a task force that overall represents some 25,000 members in the state of Washington. He said he just wants to make sure they have an opportunity to speak.

**Commissioner Graham** moved to file these for further discussion; **Commissioner Divine** seconded the motion; motion carried with three aye votes.

### **CLASS III TRIBAL/STATE COMPACTS AND COMPACT AMENDMENTS:**

**Chairman Tull** thanked Senator Prentice for her efforts to be here this morning. He said Commissioner Heavey is expected here at about 11:20 or so. He said the Commission did have a meeting in Poulsbo and went through all of the proposed compacts and amendments. He asked how many people think they would like to testify before the Commission today; **Michelle Hanson**, attorney for the Suquamish Tribe, said she would only have comments as a response to any questions; **Kathryn Nelson**, attorney for the Port Gamble S'Klallam Tribe agreed that she would be available to respond to any questions.

**COMPACTS:** Port Gamble S'Klallam Tribe and Suquamish Tribe

**COMPACT AMENDMENTS:** Tulalip Tribes of Washington; Nooksack Indian Tribe; Swinomish Tribal Community; Chehalis Confederated Tribes; Jamestown S'Klallam Tribe; Squaxin Island Tribe; and Upper Skagit Tribe

**Chairman Tull** said this item was scheduled so there would be no question about appropriate opportunities for comment, and also to accommodate the schedules of various commissioners. He called for a 10-minute recess.

\*\*\*RECESS\*\*\*\*

**Chairman Tull** called the meeting back to order and said that Commissioner Heavey has arrived and Representative Schmidt is on speaker phone to hear comments and participate in the vote on these compacts and amendments. He said this is a first in Commission history; this is the first time it has made use of speaker phones to allow the participation of a member who could not be present. **Jon McCoy**, Assistant Attorney General, assured the Commissioners that this was proper procedure. **Chairman Tull** said Director Miller is going to give an overview of the compacts and the amendments to compacts. They are in most instances very similar.

**Director Miller** said there are two new compacts before the Commission today; one with the Suquamish Tribe and one with the Port Gamble S'Klallam Tribe, and seven amendments to existing compacts. The amendments and the new scope are a result of the last seven months of negotiations. The Commission is pleased with the agreements reached with these tribes. This process commenced in May with meetings with the Governor, the Attorney General and all of the tribes regarding some concerns they had. At that time, the Governor made a statement that he opposed slot machines in any form but encouraged the Commission to see if there could be some additional flexibility put into scope of these compacts. There have been some concerns in the media and the Legislature lately regarding these new compacts and the new limits. He said he testified a few days ago in Olympia before the Senate Commerce and Labor Committee and there were some specific concerns raised by Senator Wojohn who has sent a letter in opposition. Senator Pelz also commented regarding the scope. **Director Miller** said he wants to address the scope and share how the new scope was decided.

**Director Miller** said the first stipulation of the Commission is that the gaming be free from organized crime, which has been the state's intent from day one. He said this is also an interest of the tribes that are here today. He said tribes under Federal law have the right to conduct Class III gaming if they can reach a compact with the state. The state cannot impose state law; only use state law as a parameter for negotiations. The compromise reached with the tribes was a Phase 1/Phase 2 approach. There must be strong regulation and control before going to the next level. The key element needed to remember is one facility per government. Phase 1 includes 31 tables plus 1 charitable table, closure from 2:00 a.m. to 6:00 a.m. and a \$250 wagering limit across the board. In order to go to Phase 2, there are four criteria to be met by a tribe, which begins after 6 months of operation: 1) that there have been no compact violations resulting in sanctions by the federal court; 2) that there have been no violations of the compact which are substantial or due to repetition, would be deemed material; 3) no material adverse impacts on public safety or the welfare of the surrounding community; and 4) there must be an established tribal gaming agency with a strong program of regulation and control actually in place. Phase 2 is one facility, can be open for 140 hours per week, 50 gaming stations plus 2 charitable stations, and the wagering limit is \$500. In exchange for this compromise, there is a 3-year moratorium on coming back to negotiate number of tables, hours or limits. The compacts also include a 2 percent contribution to local communities. All persons involved with the casino have had background checks completed by the Gambling Commission.

**Commissioner Heavey** asked with regard to charitable stations, when is table #1 required to be operated and when is table #2 required to be operated. **Director Miller** said that is still being worked out. **Commissioner Heavey** asked if they are actually talking about a percentage of the revenues that go to the charities. **Director Miller** said there will be a breakdown. **Chairman Tull** said he doesn't think the charitable station should be the last one open and the first one closed. **Director Miller** stated that was correct and has been made known in negotiations. **Chairman Tull** repeated Commissioner Heavey's question and Director Miller's answer for Rep. Schmidt's benefit and then asked for public testimony.

**Douglas Bell**, attorney for the Tulalip Tribes of Washington, introduced Chairman Stan Jones and Mr. Williams. He said the tribes feel very good about this compact amendment. This relationship has worked; there are differences between the two governments but the compromises are very good. Quality is the goal

that the tribes seek, and they are in favor of these amendments.

**Stan Jones**, Chairman of the Tulalip Tribes of Washington, said they have made so much headway with the agreement and their casino. They employ a little more than 550 people now. Half of the employees are non-tribal members. He said these amendments will provide 200 to 300 new jobs, and the Tribe continuously gets people who want to use the charitable table. He said the Tribe appreciates all the Commission has done.

**Chairman Tull** said the Commission has received comments from the communities and from the Legislature. Senator Heavey wrote a letter to Chairman Tull and the Commission; he read from the letter he wrote as a response to Senator Heavey, "In response to your expression of concerns about the compacts and amendments, I must express my personal opinion that these revisions regarding betting limits ultimately presented no new or especially difficult regulatory issues for the Commission. And more importantly are the product of staff formulation and negotiation with the several tribes and are a furtherance of what I think are the most successful efforts in the United States of America by any state for the establishment of regulation of on-reservation casino gambling. You are familiar with the singularity of the state of Washington's success in achieving a meaningful regulatory role in on-reservation gambling operations. While there was an expansion of the wagering limits, we still have explicit and strict limitations on every aspect of casino gaming, and in our internal discussions dating back numerous years, we have never been able to articulate a basis for permanently restricting betting limits at the original levels." **Chairman Tull** said the Commission is very mindful of these concerns. The correspondence from Senator Prentice contains conclusions close to those of the rest of the Commission members. He called for any further public comments; no one came forward

**Rep. Schmidt** said she concurs with the letter Chairman Tull read and also with the remarks received from Senator Prentice. She said she has served on the Gambling Commission since the beginning of the involvement with tribal gaming compacts. It has been a compromise from the beginning in a relationship situation that neither party wished to have to deal with. Over the years, this relationship has worked out very well. She does not view the amendments as expansion. She said it is a natural outgrowth of each side feeling comfortable with each other. She said each side is ready to move forward and this is an appropriate step to take at this time. **Senator Prentice** thanked Rep. Schmidt for being available via speaker phone. She said IGRA put the tribes in this particular position, and with the lack of economic opportunity for the tribes, many of the tribes have had to do a lot of soul-searching and many were not eager to jump into this, but this is going to create several hundred jobs. At the Poulsbo meeting, there was a young woman representing a tribe who had concerns regarding a very sticky point, and she and a Gambling Commission staff member were able to work things out during the course of the meeting. That kind of working together has been going on through this entire process. The tribes are in the position of being role models for the young tribal members in that history cannot be re-written; it has already occurred. Taking a look at the moment now, tribal members and non-tribal members must recognize they are all part of the same community, and by cooperating, agreeing, and disagreeing in the kind of negotiating spirited that has evolved, she said she is very supportive.

## **VOTE ON COMPACTS**

**Commissioner Heavey** said he was not present at the meeting in Poulsbo, but has had the opportunity to review the materials from that meeting. **Commissioner Divine** said that she also had that opportunity. **Commissioner Graham** again made the motion to adopt the two new compacts, **Sen. Prentice** seconded the motion. **Chairman Tull** clarified for the record that the two compacts include the new language found in the amended compacts. Vote taken; unanimously accepted with six aye votes.

## **VOTE ON COMPACT AMENDMENTS**

**Chairman Tull** explained the compact amendments before the Commission for the Chehalis, Jamestown

S'Klallam, Nooksack, Squaxin Island, Swinomish, Tulalip and Upper Skagit Tribes. The chair entertained a motion; Sen. Prentice so moved and Commissioner Graham seconded the motion. Vote taken; motion carried unanimously with six aye votes. **Chairman Tull** thanked folks from the various tribes for attending. He also thanked the local and state caucus members for their participation.

## UNFINISHED BUSINESS

**Chairman Tull** said there are a couple of items; yesterday the Commission deferred voting on the Boys and Girls Clubs of Tacoma. **Mr. Bishop** said staff reviewed the status of this group, and based on his personal knowledge, there seems to be some misunderstanding on this group's structure. He asked that this group be placed on the March agenda when the Commission meets in Tacoma. **Chairman Tull** agreed and deferred action on this group's qualification until the March Commission meeting.

**Director Miller** said there are two issues. This last month we have learned that the number of slot machines in Eastern Washington are continually increasing. There appears to be somewhere close to 800 machines that are operating without a tribal-state compact in violation of state and federal law. **Chairman Tull** said to the Commission that close contact should be kept with federal officials and that those federal officials take all appropriate and reasonable steps to end this illegal form of gambling in our state.

**Director Miller** said the second issue has to do with legislation. The Commission has now been sued by the Lummi Nation, and he also anticipates other suits in the future. He said he would like the authority to go forward and draft proposed legislation, if time restraints are not a problem, to bring before the Commission next month. If time restraints are a problem because of deadlines, he would like the ability to work with the Commission's attorney to possibly work with the Governor's office and seek a bill authorizing an appropriation to defend these lawsuits. This would be to at least see if there can be some help here because it is a drain on the agency. He asked for the commissioners' view on the state's friendly lawsuit activity. **Chairman Tull** suggested Director Miller proceed in that direction and that if at all necessary, communicate with the Commission prior to the February meeting. He said he thinks that licensees and compacted tribes ought not to have a significant burden, and that the Commission may have to be involved because of the agency's expertise and role.

## COMMENTS OF PUBLIC OFFICIALS/GENERAL DISCUSSION

**Ken Wheeler**, owner of Ken's Distributing, located at 400 California Way, Longview, Washington, read a letter to the Commission. "I've been in business for the past 10 years selling pull tabs, bingo supplies, etc. For the privilege of being in this business, I pay a little over \$2,000 a year to the Gambling Commission. My understanding of the responsibilities of the Commission is that you govern the 28 distributors throughout the state of Washington. I assume this requires you make sure business is conducted fairly, legally, and with some sort of uniformity. The Commissioner's recent request for a current price list and discount policy is a worthy attempt at creating some kind of uniformity, however there are no ground rules accompanying this request stating what the State really wants. If you would like everybody to give discounts in the same manner and would like to enforce this policy then you must have a policy. There is no formal state-wide discount policy. Let's have you tell us what you want and then enforce the rule. Let's not have 'Saturday sales,' 'After-Five sales,' 'Delivery sales,' 'Pickup sales,' 'Valentine sales,' etc. The way I understand it, the Commission will give a verbal warning the first time, a written warning the next and then finally a monetary fine the third time a distributor does not follow the discount policy. I could lose 10 customers in that amount of time. Is it going to be "business as usual?" Currently, I consider my business as selling paper cause that's all I really do. The state of Washington does not care if I sell this paper for 50 cents over cost or if I sell it for a 25% mark up. The State is telling me that you do care how I give my customers a discount if I chose to do so but have yet to give any guidelines regarding what kind of policy you want in place. I would like to see a policy that is fair to all

involved; customers and distributors. At this time, I feel most distributors give discounts only to stay in business. When I first got into this business, I couldn't understand how I could lose a customer to someone who is out of town, whose prices were higher than mine then I realized they were giving them whatever discount was necessary to cut my prices. If the Commission would write a policy and enforce that policy, this could not happen and yet there would still be plenty of business to go around. It seems to me the Commission is wanting distributors to do your work for you. I thought it was your job to regulate us and to catch any crooks that are trying to rip off the system. I've heard of quite a few scams to counterfeit pull tabs over the years but I have yet to hear of the Commission disciplining in any way. I think its assinine for the Commission to require us to come up with a discount policy without any guidelines from you. The only thing you will have is 28 different policies. What have we gained? Nothing. And how can you enforce 28 different policies; how are you going to say who was wrong. I have a question for you that has bothered me for some time. Why do you allow certain manufacturers to have a sale for a chosen few. For example, when a manufacturer has a sale price that begins with one 100 cases, obviously that sale is for a chosen few. Or how is it if I call certain manufacturers and tell them I have \$150,000 to spend if you have a sale to my liking, they will have a sale exacting to my liking. In closing, I would like to see the Commission set some guidelines. Have a real policy; one policy that is the same for every distributor. Tell us what that policy is, what the rules are regarding it and what the enforcement will be and then enforce it. Do the responsibilities of the Commission for which we all pay a handsome fee. I do not mind paying this fee in the least if it is accomplishing something but all I've seen for my money is chaos. This is not like I want to do business. All I want to do is sell paper. Sell it legally and abide by the Commission's rule and be on a level field with the other distributors in this State." Thank you for letting me express myself. It is my hope that you will take the comments with you, digest them, think about them, and seriously consider some changes in your system."

**Chairman Tull** thanked Mr. Wheeler for his comments and said the Commission has touched on some of those issues in the past. Quite recently, Director Miller has touched on some of these. **Director Miller** said the Commission has attempted to come to an understanding. He sent out a statement saying the Commission would interpret the rule as it is written. Staff has been monitoring that rule now in the last year. **Mr. Wheeler** stated it would be nice to have the Commission's help. **Director Miller** said he would never support built-in price increases. He will look at this issue again. His main concern is it appears some distributors are abusing the rules. **Chairman Tull** said the Commission staff should take a close look at the licensing of the companies and individuals who sell/manufacture/buy these items, and then if they are caught, take action. He also suggested looking at under what circumstances the competition will be controlled. He suggested contacting the Liquor Control Board to inquire about similar programs. **Director Miller** noted there are some distributors that are trying to abide by the rules. **Commissioner Graham** recalled the last go-rounds on this issue in Seattle. At the conclusion, the distributors felt it would be best to leave it alone and enforce it as it is written. **Director Miller** said the rule is being enforced as written, and a few distributors have been charged already. The rule allows distributors to set their own price, and they are allowed to have non-discriminatory discounts. Some distributors have different prices for delivery and pick-up, which is a legitimate discount. **Mr. Wheeler** said he doesn't care about price; all he cares about is clarity on the discount policy and how it will be enforced. **Chairman Tull** said this subject needs to be revisited in the next few months. **Director Miller** said it's not working right now and the issue needs to be discussed. He called for a distributor study group meeting to take place prior to the next Commission meeting at 9:00 a.m., Thursday, February 9th, in Olympia.

**Gary Hanson**, Washington State Council on Problem Gambling, read a letter from the Council thanking the Gambling Commission for its help, "The Washington State Council on Problem Gambling wants to take this opportunity to commend the Washington State Gambling Commission for its continuing efforts addressing problem gambling. According to surveys, up to 158,000 residents of Washington State will face gambling problems some time in their lives; up to 75,000 individuals may become pathological gamblers. The Gambling Commission recognized this problem and has been a leader in developing solutions. The Commission has contributed in many ways -- financially, personally and administratively. As a major contributor to the Council,

the Commission has enabled the Council to expand its public awareness and education programs. While this financial support is extremely important, the assistance provided by the Commission staff has been even greater. Frank Miller, Sharon Tolton and Shanna Lingel have provided advice, expertise and suggestions crucial to our efforts. Furthermore, the Commission has contributed at a national level through the work of Sharon Tolton, who serves on the Board of the National Council on Problem Gambling. Beyond its work with the Council, the Commission has moved forward with its own initiatives. The rule now being implemented, which requires gambling establishments to post signs containing the problem gambling information and referral number is a major step. This information will enable problem gamblers and, more importantly, their families to obtain assistance. The Washington State Council on Problem Gambling recognizes the foresight of Chairman Tull, each commissioner and the staff of the Washington State Gambling Commission. You are setting the example for other states and we look forward to working with you in the future." **Mr. Hanson** said his personal experience with the Commission has proven that this state has developed a very good working relationship, which is beneficial to both the industry and the recovering community.

**Chairman Tull** thanked Mr. Hanson for the kind words and letter. He said that, historically, the interest in these topics was given a strong boost by past-commissioner Anne Noel and since then the Commission has established a very gradual process that continues to evolve.

**Don Kaufman** said he sent a letter to Director Miller and copies to the members of the Commission regarding the taxes in the state of Washington as they refer to gambling by non-profit organizations. The pull tab tax is an extremely unfair tax; it's based on 5 percent of absolute gross. They pay taxes on all the personnel taxes; same as that of any other business in this state, they pay property taxes on bingo operations, they are paying the federal withholding taxes for all employees, and it goes on. He said if they had been a profit-making entity, he said the taxes would have been almost half of that. He said they feel that means they are being taxed inappropriately.

**Kevin Crum**, newly-elect chairman of the WCCGA, asked that this topic be placed on the February agenda for further discussion. **Chairman Tull** said this is an appropriate and interesting topic for the agenda, especially in light of the focus on taxing issues brought about by the petition discussed earlier today. As the agenda is being prepared, he directed staff to work out a good time and notify these people. He asked if the WCCGA is attempting to address this issue during this legislative session; **Mr. Crum** said yes, they'd like to at least get the process going. **Director Miller** said the Commission could set up the meeting with the charitable/nonprofit industry and make this issue the subject matter of the meeting. He said there is a lot to discuss. **Chairman Tull** appreciates the letter from Mr. Kaufman and Mr. Crum, and he said it is likely the issue will be placed this on the agenda.

**Lynn Melby**, Executive Director of the Washington Federation of Clubs, briefed the Commission on two pieces of legislation related to gaming and his member organizations. One is as a result of some fine-tuning the law regulating fund raising events. The other bill regarding "Calcutta" golfing events. Part of the concern is the Commission regulating some members-only events in a way different from the regulation of other members-only events. **Chairman Tull** asked if Mr. Melby thinks his organization would support the legislation that Director Miller was describing earlier regarding bad-faith law suits. **Mr. Melby** said yes.

**Chairman Tull** adjourned the meeting.

**NOTE: THESE PRINTED MINUTES PLUS THE TAPES CONSTITUTE THE FULL MINUTES.**

Susan D. Green

Executive Assistant

WSGC Meeting, SeaTac  
Friday, Jan 18, 12:00 PM